

**RE-SCAN**

Company no. 5114014

**THE COMPANIES ACTS 1985 AND 1989**

**COMPANY LIMITED BY SHARES**

**RESOLUTIONS IN WRITING**

of

**BROOMCO (3455) LIMITED**

**("Company")**

In accordance with section 381A of the Companies Act 1985 ("Act"), I, being the sole member of the above named Company who, at the date of these resolutions, is entitled to attend and vote at a general meeting of the Company **HEREBY RESOLVE** as follows (such resolutions to take effect as written resolutions):

**SPECIAL RESOLUTION**

1. **THAT** the draft regulations attached and initialled by a director for identification purposes be adopted as the articles of association of the Company to the exclusion of and in substitution for the existing articles of association of the Company.

**ORDINARY RESOLUTION**

2. **THAT** I approve that the entry by the Company into the following documents:
  - 2.1 a facilities agreement to be made between, inter alia, the Company (1) the Bank (2), Lloyds TSB Bank Plc (in its various capabilities) (3), Broomco (3439) Limited ("Newco 2") (4) and e-surv Limited (5) for a £46,000,000 loan facility comprising a senior £33,000,000 term loan facility, £3,000,000 resulting credit facility and a £10,400,000 bridge facility ("**Facilities Agreement**");
  - 2.2 a mezzanine facility agreement proposed to be entered into between the Company (1), Newco 2 (2) the Bank (3) Lloyds TSB Bank Plc (4) and E.Surv Limited (5) pursuant to which the Bank is to provide to the Company a mezzanine loan facility of £4,000,000 ("**Mezzanine Agreement**");
  - 2.3 the Transaction Documents (as defined in the Senior Facility Agreement and the Mezzanine Agreement);




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- 2.4 debenture pursuant to which, inter alia, the Company will grant fixed and floating charges over the whole of its assets and undertaking to secure and guarantee, inter alia, the obligations of the Company to the Bank;
- 2.5 an assignment of life policy to be given by the Company in respect of the life policies for Simon Embley, Paul Latham and Dean Fielding;
- 2.6 three intra-group loan agreements pursuant to which the Company will agree to provide loan facilities to Newco 2;
- 2.7 an intra-group loan agreement between the Company (1), Newco 2 (2) and e.surv Limited (3) pursuant to which e.surv Limited might be called upon to provide loan facilities to the Company;
- 2.8 an intra group loan agreement between Your-Move.co.uk Limited (1), Newco (2) and the Company (3) pursuant to which Your-Move.co.uk Limited and the Company might be called upon to provide loan facilities to the Company;
- 2.9 an intercreditor deed to be entered into by the Bank (1), Lloyds TSB Bank Plc (2), the Company (3), Newco 2 (4) and e.surv Limited;
- 2.10 an investor subordination deed to be entered into by the Bank (1), BPE (2), Lloyds TSB Bank Plc (3), Newco 2 (4) the Company (5) and e.surv Limited; and
- 2.11 an intra-group subordination deed to be entered into by the Bank (1), Lloyds TSB Bank Plc (2), Newco 2 (3) and the Company (4).

Signed:

.....  


Simon Embley

Dated:

.....  
15 July 2004

Company No. 5114014

THE COMPANIES ACTS 1985 AND 1989

PRIVATE COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION  
OF  
BROOMCO (3455) LIMITED  
INCORPORATED ON 27 APRIL 2004

ADOPTED BY SPECIAL RESOLUTION  
PASSED ON 15 JULY 2004

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## CONTENTS

Clause	Page
1. Interpretation .....	1
2. Table A .....	7
3. Share Capital .....	7
4. "A" And "B" Ordinary Shares .....	7
5. Dividends .....	7
6. Investor Director And Chairman .....	9
7. Observer .....	10
8. Provisions Applying On Every Transfer Of "A" And "B" Ordinary Shares .....	10
9. Transfer Restrictions For "A" Ordinary Shareholders .....	10
10. Compulsory Transfer .....	11
11. Transfer Restrictions For "B" Ordinary Shareholders .....	15
12. Pre-Emption Rights .....	16
13. Transfers Which Change Control .....	18
14. Bring-Along Rights .....	21
15. Conversion Of "A" And "B" Ordinary Shares .....	22
16. Variation Of Class Rights .....	22
17. General Provisions .....	23
18. Relationship With Facilities Agreement .....	33

Company No: 5114014

THE COMPANIES ACTS 1985 AND 1989

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COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

- of -

BROOMCO (3455) LIMITED

adopted by special resolution passed

on 15 July 2004

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1. **INTERPRETATION**

1.1 The following words and expressions shall bear the following meanings in these articles:

**"Accounting Period"** means an accounting reference period of the Company beginning on 1 January and ending on the following 31 December, or such other date as is notified to the Registrar of Companies from time to time;

**"Accounts"** means the audited consolidated accounts of the Group;

**"Adjusted Profits"** means in relation to any Accounting Period a sum equal to the consolidated net profit (if any) of the Group for that Accounting Period as shown in the Accounts for such period and adjusted (to the extent not already provided for) as follows:

- (a) before making any provision or reserve for or in respect of any taxation levied upon or assessed by reference to profits earned or gains realised in that Accounting Period;
- (b) before making any credit, debit, provision or reserve for material items which are unlikely to reoccur and are outside the ordinary course of business, or for any other extraordinary or exceptional items;
- (c) before making any provision for the payment of any dividend or other distribution on any class of share in the Company or the transfer of any sum to reserves;

- (d) before any amortisation of goodwill arising on the acquisition of any company or business;
- (e) after adding back any Emoluments paid to the Managers in excess of the Emoluments approved by the Remuneration Committees (as defined in the Shareholders Agreement) in respect of that Accounting Period;

and any dispute as to the amount of Adjusted Profits will be determined in accordance with Article 5.7 whose provisions will apply as if set out in full in this definition;

**"A" Ordinary Shareholder** means a person entered in the register of members of the Company as the holder from time to time of an "A" Ordinary Share;

**"Anniversary"** means in relation to a Good Leaver, the anniversary of the date when they first became an "A" Ordinary Shareholder;

**"Arrears"** means the whole amount of any Participating Dividend payable on the "B" Ordinary Shares or pursuant to Article 5.1 which is unpaid for any reason on any Due Date, as increased in accordance with Article 5.3.2;

**"Auditors"** means the auditors of the Company from time to time;

**"Bank"** means Barclays Bank plc and Lloyds TSB Bank Plc;

**"B" Ordinary Shareholder** means a person entered in the register of members of the Company as the holder from time to time of a "B" Ordinary Share;

**"Board"** means the board of directors of the Company from time to time or any duly authorised committee of such board;

**"Call Option Agreement"** means the call option agreement dated on or around the date of adoption of these Articles made between (1) the Company and (2) Barclays Private Equity Limited;

**"Cessation Date"** means the date on which an employee or director of any member of the Group ceases to be an employee or director (for any reason including death);

**"Co-Investment Scheme"** means a scheme under which certain officers, employees or partners of an Investor (as defined in the Shareholders' Agreement) or its adviser or manager are entitled (as individuals or through a body corporate or any other vehicle) to acquire shares which the Investor would otherwise acquire;

**"connected"** in the context of determining whether one person is connected with another shall be determined in accordance with the provisions of section 839 of ICTA and a **"person connected"** with another person shall be construed accordingly;

**"Credited as Paid Up"** means amounts paid up or credited as paid up on an Ordinary Share including any premium;

**"Default Period"** means each period commencing on the date on which any of the following first occurs, and ending on the date on which each of the following no longer applies:

- (a) the Company is in breach of any of the financial covenants contained in clause 23 of the Facilities Agreement or the Company is in breach of any of the financial covenants contained in clause 22 of the Mezzanine Facility Agreement (as defined in the Facilities Agreement) and such breach of covenant has not been waived in writing by the Bank ; or
- (b) the Company or any of the Managers is in material breach of clauses 6 or 8 of the Shareholders' Agreement and such breach has not been waived and if such breach is capable of remedy, a written notice requiring such breach to be remedied has been served upon the Company and the Managers and such breach has not been remedied with 14 days of such notice; or
- (c) the Company has failed to redeem any amount of the Loan Notes on the due date for redemption; or
- (d) the Company has failed to pay an instalment of interest under the Loan Notes within 7 days of request for payment of such interest if payment is not made on the due date; or
- (e) the Company has failed to pay a Participating Dividend within 7 days of the request for payment of such dividend if payment is not made on the Due Date;

**"Due Date"** means the due date for payment of any Participating Dividend pursuant to article 5.2.3;

**"Emoluments"** means emoluments of every description including, without limitation, salaries, fees, bonuses, commissions, profit shares under any incentive scheme, pension contributions payable, benefits in kind as quantified for income tax purposes and any amounts referred to in schedule 6 part 1 paragraph 1 of the Companies Act;

**"Exit"** means a Sale or Listing;

**"Experts"** means the Auditors or, if the Auditors decline to act or if either the Majority Managers or the Majority Investors so request, such independent firm of chartered accountants agreed or appointed under Article 5.7;

**"Facilities Agreement"** means the facilities agreement dated on or about the date on which these articles are adopted between (1) the Bank and (2) the Company;

**"Family Member"** means in relation to a person, his spouse (or widow or widower), children and grandchildren (including adopted children);

**"FSMA"** means the Financial Services and Markets Act 2000 as amended or its successor legislation;

**"Fund"** means any bank, investment trust or investment company, unit trust, building society, industrial provident or friendly society, any other collective investment scheme (as defined by the FSMA), any investment professional (as defined in article 19(5)(d) of

the FSMA (Financial Promotion) Order 2001 (the "**FPO**"), any high net worth company or unincorporated association or high value trust (as defined in article 49(2) (a) to (c) of the FPO), partnership, limited partnership, pension fund or insurance company or any person who is an authorised person under the FSMA, any subsidiary undertaking or parent undertaking of any of the foregoing and any co-investment scheme in relation to any of the foregoing;

**"Group"** means the Company and its subsidiary undertakings from time to time and **"member of the Group"** is to be construed accordingly;

**"ICTA"** means the Income and Corporation Taxes Act 1988;

**"Intercreditor Deed"** means the intercreditor deed dated on or about the date on which these articles are adopted between (1) the Company, (2) the Investors and (3) the Bank;

**"Investor Director"** means a director appointed as such pursuant to article 6;

**"Investor"** has the meaning given in the Shareholders' Agreement and **"Investors"** shall be construed accordingly, for so long as such person is a party to the Shareholders' Agreement;

**"investment company"** means a company whose sole or principal object is to invest its funds wholly or mainly in "investments" as defined in part II of schedule 2 of the FSMA (or in property or in such other assets referred to in paragraph 21.6 of the Listing Rules made by the LSE pursuant to section 73(2) of the FSMA (as amended from time to time), as the LSE may approve) with the object of spreading investment risk and managing its portfolio for the benefit of its shareholders;

**"investment trust"** means a company which has been approved by, or is seeking approval from, the Inland Revenue as an investment trust for the purposes of section 842 of ICTA in respect of its most recent accounting period or which has announced that it will direct its affairs so as to enable it to seek such approval in respect of its current accounting period;

**"Issue Price"** means the aggregate of the amount paid up (or credited as paid up) and any amount credited to the share premium account on the relevant share in the capital of the Company;

**"Lead Investor"** means Barclays Private Equity Limited (Company No. 1125740) of 54 Lombard Street, London EC3P 3AH;

**"Listing"** means: (a) together the admission of any of the Company's shares to the Official List of the UK Listing Authority becoming effective (in accordance with paragraph 7.1 of the rules made by the UK Listing Authority pursuant to section 74 FSMA, as amended or its successor legislation) and the admission of any of the Company's shares to trading on the London Stock Exchange plc's market for listed securities (in accordance with paragraph 2.1 of the Admission and Disclosure Standards of the London Stock Exchange plc as amended from time to time); or (b) the admission to trading of any of the Company's shares on the Alternative Investment Market of the London Stock Exchange plc becoming effective; or (c) equivalent admission to trading



to or permission to deal on any other Recognised Investment Exchange becoming effective;

**"Loan Notes"** means the £10,400,000 secured loan notes to be issued by the Company pursuant to the Shareholders' Agreement and any loan notes issued pursuant to the Call Option Agreement, all such loan notes and to be constituted by the Loan Note Instrument;

**"Loan Note Instrument"** means the instrument executed by the Company dated on or about the date on which these articles are adopted constituting the £15,400,000 secured loan notes of the Company;

**"LSE"** means the London Stock Exchange plc;

**"Majority Investors"** means the holders of 51% or more of the "B" Ordinary Shares from time to time in issue;

**"Majority Managers"** means the holders of 51% or more of the "A" Ordinary Shares held by those Managers who are directors of the Company at the relevant time;

**"Manager"** has the meaning given to it in the Shareholders' Agreement;

**"Market Value"** in relation to a share means the price which the Experts confirm in writing to be in their opinion the market value of the shares concerned on a sale as between a willing seller and a willing purchaser and, in determining such market value, the Experts shall be instructed in particular:

- (i) to have regard to the rights and restrictions attached to such shares in respect of income and capital; and
- (ii) without taking into account whether such shares represent a minority or a majority interest as appropriate;

**"Newco 2"** means Broomco (3439) Limited whose registered number is 5095079;

**"Ordinary Shareholders"** means together the "A" Ordinary Shareholders and the "B" Ordinary Shareholders;

**"Ordinary Shares"** means the "A" Ordinary Shares and the "B" Ordinary Shares in issue from time to time taken together;

**"Participating Dividend"** means the cumulative participating cash dividend payable on the B Ordinary Shares in accordance with Article 5.1;

**"Recognised Investment Exchange"** has the meaning ascribed thereto in section 285(1)(a) FSMA;

**"Sale"** means the transfer (whether through a single transaction or a series of transactions) of 75% or more of the "B" Ordinary Shares in issue to a person and any other person:

- (i) who is connected with him;

- (ii) with whom he is acting in concert, as defined in the City Code on Takeovers and Mergers

other than a person who:

- (i) is an original party to the Shareholders' Agreement as an Investor; or
- (ii) acquired shares pursuant to articles 11.2 to 11.8;

**"Shareholders' Agreement"** means the agreement dated on or around the date of adoption of these Articles made between (1) the Company (2) Broomco (3439) Limited (3) Simon Embley and others (4) Barclays Private Equity European Fund 'A' and others (5) Barclays Private Equity Limited, as amended from time to time;

**"Table A"** means Table A in the schedule to the Companies (Tables A to F) Regulations 1985 (S.I. 1985 No. 805) (as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (S.I. 1985 No. 1052)); and

**"UKLA"** means the UK Listing Authority.

- 1.2 The headings in these articles shall not affect the construction of these articles
- 1.3 Unless the contrary intention appears, words importing the singular number include the plural number and vice versa, words importing one gender include all genders and words importing persons include bodies corporate and unincorporated associations
- 1.4 A reference in these articles to a **"transfer"** of shares or any similar expression shall be deemed to include (without limitation):
  - 1.4.1 any sale or other disposition of the legal or equitable interest in a share (including any voting right attached to a share) (an **"Interest"**);
  - 1.4.2 the creation of any mortgage, charge, pledge or other encumbrance over any Interest;
  - 1.4.3 the renunciation of a right to be allotted a share by any member entitled to any such allotment;
  - 1.4.4 any direction by a member entitled to an allotment or issue of shares that a share be allotted or issued to some person other than himself; and
  - 1.4.5 any grant of an option to acquire either or both of the legal and equitable ownership of any share in the capital of the Company by any member entitled to any such share.
- 1.5 Where an ordinary resolution of the Company is required for any purpose, a special or an extraordinary resolution is also effective for that purpose, and where an extraordinary resolution is required for any purpose, a special resolution is also effective for that purpose.

2. **TABLE A**

- 2.1 The regulations contained in Table A apply to the Company except to the extent that they are excluded or modified by these articles.
- 2.2 The first sentence of regulation 24 and regulations 38, 50, 60, 61, 64, 73 to 78 (inclusive), 80, 81, 90, 94 to 98 (inclusive), 115 and 118 of Table A do not apply.

3. **SHARE CAPITAL**

The authorised share capital of the Company at the date of adoption of these articles is £208,333.20 divided into:

1,083,332 "A" ordinary shares of 10p each ("**A Ordinary Shares**"); and

1,000,000 "B" ordinary shares of 10p each ("**B Ordinary Shares**").

4. **"A" AND "B" ORDINARY SHARES**

- 4.1 Except as otherwise provided in these articles, the "A" Ordinary Shares and the "B" Ordinary Shares rank pari passu but they each constitute a separate class of shares.

4.2 **Voting**

The holders of the "B" Ordinary Shares shall in any Default Period be entitled at any meeting and at any adjournment thereof to exercise on a poll 95% of the voting rights attaching to all Ordinary Shares after the application of this article. Such enhanced voting rights shall only arise if any Investor has during a Default Period served notice ("**Enhancement Notice**") on the Company at the registered office or at any meeting of the Board specifically activating the enhanced rights under this Article 4.2. Such enhancement shall take effect on service of the Enhancement Notice or at such later time as may be specified therein and shall automatically apply to all the "B" Ordinary Shares and shall cease on whichever is the earlier of the date upon which the Default Period in question ends or the date upon which Majority Investors shall serve on the Company or at a meeting of the Board a notice ("**Deactivation Notice**") to end such enhancement in respect of that breach. The service of a Deactivation Notice shall not prevent any Investor from serving a subsequent Enhancement Notice during the same (or any other) Default Period.

5. **DIVIDENDS**

- 5.1 The profits of the Company which are available for lawful distribution in respect of each Accounting Period will be applied as follows:
- 5.1.1 in respect of the Accounting Period ending 31 December 2006, in paying to the holders of the "B" Ordinary Shares as a class in aggregate a cumulative cash dividend of a sum equal to 5% of the Adjusted Profits;
- 5.1.2 in respect of the Accounting Period ending 31 December 2007 and all subsequent Accounting Periods, in paying to the holders of the "B" Ordinary Shares as a class in aggregate a cumulative cash dividend of a sum equal to 10% of the Adjusted Profits.

- 5.2 The following will apply in respect of the Participating Dividend:
- 5.2.1 the dividends will be paid in cash;
  - 5.2.2 the dividends will accrue on a daily basis;
  - 5.2.3 the dividends will be paid within 10 days after the annual general meeting of the Company at which the Accounts for the relevant Accounting Period are presented (which must not be later than four months after the end of that Accounting Period) PROVIDED THAT any accrued but unpaid dividends will be calculated up to and including the date of Exit and shall be paid immediately prior to Exit;
  - 5.2.4 any amount of dividend will belong to and be paid to the holders of "B" Ordinary Shares pro rata according to their holdings of such shares and pro rata to the number of complete days in the Accounting Period in question for which the respective "B" Ordinary Shareholders have been registered holders of "B" Ordinary Shares;
  - 5.2.5 the Participating Dividend will be cumulative. Notwithstanding anything contained in Regulations 102 to 108 (inclusive), the Company does not need to declare them. Any such dividend, as increased pursuant to Article 5.3, will become a debt due from and immediately payable by the Company to the "B" Ordinary Shares to whom it is payable on the date or dates set out in Article 5.2.6 without any requirement for a recommendation of the Directors or a resolution of the Ordinary Shareholders in general meeting in respect of that dividend;
  - 5.2.6 for the purposes of Article 5.2.5 the date or dates on which any such dividend will become a debt will be:
    - (a) the Due Date if such debt can lawfully arise on such date or dates; or
    - (b) otherwise as soon afterwards as such debt can lawfully arise.
- 5.3 If the Company fails to pay in full any of the Participating Dividend on any Due Date:
- 5.3.1 on the Due Date in question the Company will pay to the "B" Ordinary Shareholders on account of the Participating Dividend the maximum sum (if any) which can lawfully be paid by the Company;
  - 5.3.2 the whole amount of any unpaid dividend will be increased by 3% per annum above the base lending rate of Barclays Bank plc (such amount accruing on a daily basis from the Due Date until the date or dates of actual payment);
  - 5.3.3 all Arrears will be carried forward and on each succeeding Due Date the Company will pay on account of any outstanding balance such amount as can then lawfully be paid, and this procedure will continue until such time as the relevant Arrears have been paid in full.

- 5.4 Whenever there are Arrears outstanding, any profits of the Company which are available for lawful distribution will be applied in the following order and priority:
- 5.4.1 payment of all Arrears of Participating Dividend;
  - 5.4.2 payment of Participating Dividend accruing subsequently.
- 5.5 No dividend will be payable on the "A" Ordinary Shares without the prior written consent of the Majority Investors.
- 5.6 If at any time it is not possible to determine the amount of any dividend or payment by reference to any Accounts, such amount will be determined by reference to the latest available management accounts. Any dispute as to such amount will be determined in accordance with Article 5.7.
- 5.7 Any dispute as to value, or as to calculations or adjustments to be made, or as to the amount of Adjusted Profits, or otherwise pursuant to these articles, will be referred immediately to the Auditors for final determination. If the Auditors decline to act in respect of any such referral (or if either the Majority Managers or the Majority Investors so request), the matter will be determined by an independent firm of chartered accountants agreed for the purpose by the parties concerned or, in default of agreement within 10 days after the Auditors have declined to act (or within 10 days after either the Majority Managers or the Majority Investors have requested), appointed by the incumbent president of the Institute of Chartered Accountants in England and Wales. The Auditors or independent accountants (as the case may be) will act as expert and not as arbitrator and their costs will be borne as directed by the Auditors/independent accountants. In the absence of any such direction, such costs will be borne by the Company. The written certificate of the Auditors/independent accountants (as the case may be) will be conclusive and binding on the Company and the Ordinary Shareholders (except in the case of fraud or manifest error).

## 6. INVESTOR DIRECTOR AND CHAIRMAN

- 6.1 The Majority Investors are entitled to appoint two directors to the Board, one non-executive director (the "**Investor Director**") and a non-executive chairman (the "**Chairman**") and are entitled to remove any such director and appoint another person in their place. The initial appointments of the Investor Director and the Chairman shall be made pursuant to the Shareholders' Agreement. Subsequent appointments and removals shall be made by written notice served on the Company save that, prior to any subsequent appointment of the Chairman, the Investor shall consult with the Managers in accordance with clause 7.1.2 of the Shareholders Agreement. Each such appointment and removal shall subject, in relation to the Chairman, to compliance with the obligation to consult with the Managers, take effect forthwith upon such notice being received by the Company.
- 6.2 The Majority Investor shall have the right to appoint an Investor Director to the board of directors of any subsidiary undertaking of the Company and to any committee of the board of any member of the Group and the provisions of article 6.1 relating to notice shall apply mutatis mutandis to any such appointment.

7. **OBSERVER**

- 7.1 The Majority Investors are entitled to appoint and remove any person (and to appoint another person in his place) as an observer (the "**Observer**") to attend all meetings of the Board. Any such person shall be entitled to receive notice of such meetings of the Board as if he was a director of the board. Any such appointments and removals shall be made by written notice served on the Company. The Observer shall be entitled to attend and speak at any meetings of the directors of any members of the Group and any committees of those boards but shall not be entitled to vote nor shall the Observer be or be regarded as an officer of any member of the Group.

8. **PROVISIONS APPLYING ON EVERY TRANSFER OF "A" AND "B" ORDINARY SHARES**

- 8.1 The directors shall not register a transfer of "A" Ordinary Shares or "B" Ordinary Shares unless:
- 8.1.1 the transfer is permitted by articles 9 or 11 or has been made in accordance with articles 10 or 12 to 14 (inclusive); and
  - 8.1.2 the proposed transferee has entered into a deed of adherence to the Shareholders' Agreement, in the form required by that agreement.
- 8.2 The "A" Ordinary Shareholders are not entitled to transfer "A" Ordinary Shares unless the transfer is permitted by article 9 or has been made in accordance with articles 10, 13 or 14.
- 8.3 The "B" Ordinary Shareholders are not entitled to transfer "B" Ordinary Shares unless the transfer is permitted by article 11 or has been made in accordance with articles 12 to 14 (inclusive).
- 8.4 For the purpose of ensuring that a transfer of "A" Ordinary Shares or "B" Ordinary Shares is permitted under these articles or that no circumstances have arisen whereby a notice is required to be or ought to have been given under these articles or that an offer is required to be or ought to have been made pursuant to article 13.3, the Board may, and shall if so requested by the Investor Director, require any shareholder to procure that such person as the Board or the Investor Director may reasonably believe to have information relevant to such purpose, provides the Company with such information and evidence as the Board (or the Investor Director) may think fit regarding any matter which they deem relevant to such purpose. Pending the provision of any such information the Board shall be entitled to refuse to register any relevant transfer.

9. **TRANSFER RESTRICTIONS FOR "A" ORDINARY SHAREHOLDERS**

No "A" Ordinary Share may be transferred by an "A" Ordinary Shareholder other than:

- 9.1 with the written consent of an Investor Director and the written consent of the Majority Managers;
- 9.2 when required by article 10;

- 9.3 to the personal representatives of an "A" Ordinary Shareholder who has died and who was an employee of any member of the Group once the "A" Ordinary Shareholder's personal representatives can no longer be bound to sell those shares pursuant to article 10;
- 9.4 on and after Listing in accordance with the provisions of any underwriting agreement entered into in connection with the Listing;
- 9.5 in acceptance of an offer by a proposed transferee made under article 13;
- 9.6 when required by article 14; or
- 9.7 to the Company in accordance with the provisions of the Act.

#### 10. **COMPULSORY TRANSFER**

- 10.1 This article applies when an employee or director of any member of the Group who is an "A" Ordinary Shareholder ceases for any reason to be an employee or director of any member of the Group and is not continuing to be an employee or director of any other members of the Group.
- 10.2 Within six months after the Cessation Date, either (i) the Investor Director or (ii) the Majority Managers (after the expiry of five months after the Cessation Date if the Investor Director has not served such notice before such five month period has expired) may serve notice (the "**Sale Notice**") on the "A" Ordinary Shareholder (or his personal representatives in the event of his death) (each a "**Compulsory Seller**" and together the "**Compulsory Sellers**") requiring such person to offer some or all of the "A" Ordinary Shares of which such person (or any of his Family Members) is the registered holder or to which he (or any of his Family Members) is entitled whether as a result of his holding of "A" Ordinary Shares or otherwise (the "**Sale Shares**") to, subject to the provisions of article 10.3, any of the following:
  - 10.2.1 a person or persons intended to take the employee's place; or
  - 10.2.2 any of the existing employees of any member of the Group; or
  - 10.2.3 a trust established for the benefit of employees of the Group; or
  - 10.2.4 any other person or persons approved by the Investor Director.

(each on "**Offeree**"). The Sale Notice may reserve to the Investor Director the right to finalise the identity of the Offeree once the price for the Sale Shares has been agreed or certified.

- 10.3 The decision as to which person or category of person as listed in Article 10.2 that any Sale Shares should be offered to shall be made by the Remuneration Committee (as defined in the Shareholders' Agreement) following (and in accordance with) a recommendation of the Board (such recommendation to be made with the consent of the Investor Director). The Investor Director shall not unreasonably withhold or delay his consent to such recommendation. Any Sale Shares which were originally held by one of the Managers not allocated pursuant to Article 10.2 will be offered to the "A" Ordinary

Shareholders and "B" Ordinary Shareholders pro rata to their shareholdings of Ordinary Shares and the provisions of Article 12 shall apply to such offer mutatis mutandis. Any Sale Shares which were originally held by a Second Tier Manager (as defined in the Shareholders' Agreement) not allocated pursuant to Article 10.2 will be offered to the "A" Ordinary Shareholders pro rata to their shareholdings of "A" Ordinary Shares before being offered to the "B" Ordinary Shareholders and the provisions of Article 12 shall apply to such offers mutatis mutandis.

- 10.4 The Sale Shares shall be transferred by the Compulsory Seller to the Offeree identified in accordance with Article 10.3 free from all liens, charges and other encumbrances and together with all rights attaching to the Sale Shares on the terms set out in articles 10.5 to 10.8 (inclusive).
- 10.5 The price for each Sale Share (the "**Sale Price**") shall be the price agreed between the Compulsory Seller and the Investor Director or, if they do not agree a price within 14 days of the date of the Sale Notice, the price certified by the Experts, acting as experts and not as arbitrators, to be:
- 10.5.1 if the employee or director is a Bad Leaver, the lower of (1) the Issue Price of a Sale Share (or where the Sale Shares were originally acquired by the Compulsory Seller by way of transfer rather than allotment, the amount paid for each Sale Share by such Compulsory Seller on a transfer) and (2) Market Value of a Sale Share on the Cessation Date; or
  - 10.5.2 if the employee or director is a Good Leaver and the Cessation Date occurs before the first Anniversary, the higher of (1) the Issue Price of a Sale Share (or where the Sale Shares were originally acquired by the Compulsory Seller by way of transfer rather than allotment, the amount paid for each Sale Share by such Compulsory Seller on a transfer) and (2) one third of Market Value of a Sale Share on the Cessation Date;
  - 10.5.3 if the employee or director is a Good Leaver and the Cessation Date occurs on or after the first Anniversary but before the second Anniversary, the higher of (1) the Issue Price of a Sale Share (or where the Sale Shares were originally acquired by the Compulsory Seller by way of transfer rather than allotment, the amount paid for each Sale Share by such Compulsory Seller on a transfer) and (2) two thirds of Market Value of a Sale Share on the Cessation Date;
  - 10.5.4 if the employee or director is a Good Leaver and the Cessation Date occurs on or after the second Anniversary, the Market Value of a Sale Share on the Cessation Date.

The Experts shall be instructed to certify the price as soon as possible after being instructed by the Company to do so and their decision shall be final and binding on the parties (save in the case of fraud or manifest error). The costs of the Experts shall be paid in equal proportions by the Company and the Compulsory Seller except where the Market Value, determined as aforesaid, exceeds the price for such Sale Shares initially proposed by the Investor Director by 5% or more, in which case all such costs and expenses shall be paid by the Company.



- 10.6 Within 7 days of the Sale Price being agreed or certified:
- 10.6.1 the Company shall notify the Compulsory Seller of the name and address of the Offeree and the number of Sale Shares to be offered to such person; and
  - 10.6.2 the Company shall serve notice on the Offeree specifying:
    - (i) the number of Sale Shares on offer to him;
    - (ii) the Sale Price; and
    - (iii) the date, between 7 and 14 days after the date of the notice, on which the sale and purchase of the Sale Shares is to be completed (the "**Completion Date**").
- 10.7 The Compulsory Seller shall deliver to the Company a duly executed stock transfer form in respect of the Sale Shares together with the relevant share certificates (or an indemnity in respect thereof in a form satisfactory to the Board) by the Completion Date. On the Completion Date the Company shall pay the aggregate Sale Price due to the Compulsory Seller, on behalf of the Offeree, to the extent the Offeree has put the Company in the requisite funds. Such payment shall be made in a manner to be agreed between the Company and the Compulsory Seller or, in the absence of such agreement, by cheque to its registered address. The Company's receipt for the aggregate Sale Price shall be a good discharge to the Offeree. The Company shall hold the aggregate Sale Price in trust for the Compulsory Seller without any obligation to pay interest.
- 10.8 If a Compulsory Seller fails to deliver to the Company by the Completion Date duly executed stock transfer forms for all of the Sale Shares which he is due to transfer the Board may (and shall if requested by the Investor Director) authorise any director to execute, complete and deliver in the name of and on behalf of the Compulsory Seller a transfer of the Sale Shares to the relevant Offeree to the extent the Offeree has, by the Completion Date, put the Company in funds to pay the aggregate Sale Price for the Sale Shares offered to him. The Board shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Compulsory Seller shall surrender to the Company his share certificate (or, where appropriate, provide an indemnity in respect thereof in a form satisfactory to the Board) for the Sale Shares whereupon he shall be entitled to the aggregate Sale Price for the Sale Shares transferred by him. If completion in respect of the sale and purchase of the Sale Shares does not take place within 90 days of the date of the notice served pursuant to Article 10.6.2, the Sale Notice will lapse.
- 10.9 A "**Bad Leaver**" means a person who is not a Good Leaver.
- 10.10 A "**Good Leaver**" means a person:
- 10.10.1 whose contract of employment or appointment is terminated by reason of death, incapacity due to ill-health or disability (which, in the reasonable opinion of the Majority Investors, is sufficiently serious to prevent the relevant person from carrying out his normal duties for a period of two years or more and provided

that such incapacity, ill-health or disability is not as a result of the abuse of alcohol or drugs); or

10.10.2 retirement at normal retirement age; or

10.10.3 who is dismissed from his employment in circumstances which have resulted in a successful claim against the relevant member of the Group for wrongful dismissal; or

10.10.4 who is dismissed by reason of redundancy; or

10.10.5 who is dismissed from his employment in circumstances which have resulted in a successful claim against the relevant member of the Group for unfair dismissal, unless:

10.10.5.1 any award by an employment tribunal is limited to compensation for failure on the part of the relevant Group member to adopt a fair procedure in relation to such dismissal; or

10.10.5.2 the majority of the Board voted in favour of such dismissal;

in which case such person shall be a Bad Leaver;

10.10.6 who does not fall within articles 10.10.1 to 10.10.5 above but is determined by the Board (with the consent of the Majority Investors) to be a Good Leaver.

10.11 Unless the Investor Director stipulates otherwise in writing, any shares held by a Compulsory Seller (or any of his Family Members) on the Cessation Date (and any shares issued to a Compulsory Seller (or any of his Family Members) after the Cessation Date whether by virtue of the exercise of any right or option granted or arising by virtue of the holding of the Sale Shares by the Compulsory Seller or any of his Family Members) shall cease to confer the right to be entitled to receive notice of or to attend or vote at any general meeting of the Company or at any meeting of the holders of any class of shares in the capital of the Company with effect from the Cessation Date (or, where appropriate, the date of issue of such shares, if later) and such shares shall not be counted in determining the total number of votes which may be cast at any such meeting or required for the purposes of a written resolution of any members or class of members. For the avoidance of doubt, the provisions of this Article 10.11 shall apply to all "A" Ordinary Shares held by an "A" Ordinary Shareholder (and any "A" Ordinary Shares held by any of his Family Members) on the Cessation Date regardless of whether a Sale Notice is served on him. Such right shall be restored immediately upon:

10.11.1 the Company registering a transfer of the Sale Shares pursuant to this article 10; or

10.11.2 a Sale or Listing.

10.12 Unless an Investor Director otherwise agrees, any notice relating to the transfer of the Sale Shares or any of them in force at the Cessation Date shall immediately be cancelled (unless all the shares subject to it have already been sold) and no further notice shall be

issued or be deemed to be issued in respect of the Sale Shares except pursuant to this article 10.

**11. TRANSFER RESTRICTIONS FOR "B" ORDINARY SHAREHOLDERS**

No "B" Ordinary Share may be transferred other than:

- 11.1 with the written consent of the Majority Managers and the written consent of 51% or more in number of the "B" Ordinary Shares in issue;
- 11.2 in the case of a "B" Ordinary Shareholder which is an undertaking, to a group undertaking of the transferor if the transferee gives an undertaking to the Company that if the transferee is to cease to be a group undertaking of the transferor, all its shares in the Company will, before the cessation, be transferred to another group undertaking of the transferor;
- 11.3 up to but not exceeding 25% of a "B" Ordinary Shareholder's original holding of "B" Ordinary Shares to a member or members of the British Venture Capital Association;
- 11.4 in the case of a holder of any "B" Ordinary Shares which is a Fund by its trustee, custodian or nominee or by an entity wholly or substantially wholly owned by any Fund (an "**Investment Holding Company**") or by any entity co-investing alongside such Fund (a "**Co-investor**"):
  - (i) to any trustee, nominee or custodian for such fund and vice versa;
  - (ii) to any unit holder, shareholder, partner, participant, manager or adviser (or an employee of such manager or adviser) in any such fund;
  - (iii) to any other Fund, or its trustee, nominee or custodian, managed or advised by the same manager or adviser as any such fund;
  - (iv) to any Co-investor or its trustee, nominee, or custodian thereof; or
  - (v) to any Investment Holding Company or any trustee, nominee or custodian thereof.
- 11.5 to a trustee, nominee, custodian or to a member of the same group of any of the persons referred to in sub-paragraphs (i) (ii) or (iii) of article 11.4 above;
- 11.6 in the case of a "B" Ordinary Shareholder which is an investment trust whose shares are listed on the London Stock Exchange to another such investment trust which is also managed by the manager of the "B" Ordinary Shareholder;
- 11.7 to a Co-Investment Scheme;
- 11.8 in the case of a Co-Investment Scheme which holds "B" Ordinary Shares through another undertaking to:
  - (i) another undertaking which holds or is to hold shares for the Co-Investment Scheme; or

- (ii) the officers, employees or partners entitled to the "B" Ordinary Shares under the Co-Investment Scheme;
- 11.9 on and after Listing in accordance with the provisions of any underwriting agreement entered into in connection with the Listing;
- 11.10 in connection with an offer made under article 13;
- 11.11 when required by article 14;
- 11.12 to the Company in accordance with the provisions of the Act;
- 11.13 to any other Investor; or
- 11.14 pursuant to article 12.

Notwithstanding the provisions of any other article, the transfers set out in this Article 11 (other than articles 11.1 and 11.14) shall be permitted without the requirement to go through the pre-emption procedure in article 12.

## 12. PRE-EMPTION RIGHTS

- 12.1 A "B" Ordinary Shareholder (a **"Selling Shareholder"**) who wishes to transfer any "B" Ordinary Shares in circumstances other than those referred to in articles 11.2 to 11.13 shall serve written notice on the Company (the **"Sale Notice"**) stating the number of shares it wishes to transfer (the **"Sale Shares"**) and its asking price for each share (the **"Asking Price"**).
- 12.2 The Selling Shareholder may specify in the Sale Notice that it is only willing to transfer all the Sale Shares, in which case no Sale Shares can be sold unless offers are received for all of them.
- 12.3 The Sale Notice shall make the Company the agent of the Selling Shareholder for the sale of the Sale Shares on the terms set out in the Sale Notice and on the following additional terms in each case, which the Company shall notify in writing to the other "B" Ordinary Shareholders within 7 days of the date of the Sale Notice:
  - 12.3.1 the Sale Shares are to be sold free from all liens, charges and other encumbrances and together with all rights attaching to them;
  - 12.3.2 each of the other "B" Ordinary Shareholders is entitled to buy such number of Sale Shares as reflects, as nearly as possible, the nominal amount of their holdings of "B" Ordinary Shares at the date of the Sale Notice; a "B" Ordinary Shareholder is entitled to buy fewer Sale Shares than his proportional entitlement;
  - 12.3.3 "B" Ordinary Shareholders may offer to buy any number of the "B" Ordinary Shares that are not accepted by the other "B" Ordinary Shareholders (the **"Excess Shares"**);
  - 12.3.4 any offer by the "B" Ordinary Shareholders to buy some or all of the Sale Shares shall be made in writing to the Company within 21 days of the date of

the Company's notice (the "**Closing Date**"), failing which the "B" Ordinary Shareholder shall be deemed to have declined the offer; and

- 12.3.5 on the Closing Date:
- (i) the Sale Notice shall become irrevocable; and
  - (ii) each offer made by a "B" Ordinary Shareholder to acquire Sale Shares shall become irrevocable.
- 12.4 If the Company receives offers for more "B" Ordinary Shares than the number of Sale Shares, each "B" Ordinary Shareholder who offered to buy Excess Shares shall be deemed (so far as practicable and without exceeding the number of shares which each such "B" Ordinary Shareholder shall have offered to purchase) to have offered to purchase a number of Excess Shares reflecting, as nearly as possible, the number of Excess Shares he offered to buy as a proportion of the total number of Excess Shares for which offers were received.
- 12.5 Within 7 days after the Closing Date, the Company shall notify the result of the offer to the Selling Shareholder and to those "B" Ordinary Shareholders who offered to buy Sale Shares and, if any Sale Shares are to be sold pursuant to the offer:
- 12.5.1 the Company shall notify the Selling Shareholder in writing of the names and addresses of the "B" Ordinary Shareholders who are to buy Sale Shares and the number to be bought by each;
  - 12.5.2 the Company shall notify each "B" Ordinary Shareholder in writing of the number of Sale Shares he is to buy; and
  - 12.5.3 the Company's notices shall state a place and time, between 7 and 14 days after the date of the notice, on which the sale and purchase of the Sale Shares is to be completed and the Selling Shareholder shall be obliged to transfer such Sale Shares upon payment of the Asking Price for each such share. However, if the Sale Notice specifies that the Selling Shareholder is only willing to transfer all the Sale Shares and the Company does not receive offers for all the Sale Shares, then the provisions of article 12.7 shall apply.
- 12.6 If the Selling Shareholder fails to transfer any Sale Shares in accordance with article 12.5, the Board may (and shall if so requested by an Investor Director) authorise any director to execute, complete and deliver in the name of and on behalf of the Selling Shareholder a transfer of the Sale Shares to the "B" Ordinary Shareholders concerned against receipt by the Company of the aggregate Asking Price due from the "B" Ordinary Shareholder(s) concerned. The Company shall hold such sums in trust for the Selling Shareholder without any obligation to pay interest. The Company's receipt of the aggregate Asking Price due from a "B" Ordinary Shareholder in respect of the Sale Shares to be acquired by him shall be a good discharge to the relevant "B" Ordinary Shareholder. The directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Selling Shareholder shall surrender to the Company his share certificate (or, where appropriate, provide an indemnity in respect thereof in a form satisfactory to the Board) for the Sale Shares to be

transferred by him whereupon he shall be entitled to the Asking Price for the relevant Sale Shares. If such certificate shall comprise any shares which the Selling Shareholder has not become bound to transfer as aforesaid, the Company shall issue to the Selling Shareholder a new certificate for such shares.

- 12.7 If, by the Closing Date, the Company has not received offers for all the Sale Shares, the Selling Shareholder may within the next two months transfer the Sale Shares for which offers were not received (or, if the Sale Notice stated that he was only willing to transfer all the Sale Shares, all the Sale Shares) to any person at no less than the Asking Price and otherwise on terms no more favourable than those specified in the Company Notice **PROVIDED THAT:**

- 12.7.1 the Board shall be entitled to refuse registration of any proposed transferee if he is reasonably considered by the Board to be a competitor of the business of the Group or a person connected with such a competitor (or a nominee of either);
- 12.7.2 if the Selling Shareholder stipulated in the Sale Notice that he was only willing to transfer all the Sale Shares, the Selling Shareholder shall not be entitled, without the written consent of the Majority Investors, to sell only some of the Sale Shares to such person or persons; and
- 12.7.3 the Board shall refuse registration of the proposed transferee if such transfer obliges the Selling Shareholder to procure the making of an offer pursuant to article 13.3, until such offer has been made and completed.

### 13. TRANSFERS WHICH CHANGE CONTROL

- 13.1 This article applies in circumstances other than those referred to in article 13.2 when a transfer of "A" Ordinary Shares or "B" Ordinary Shares would, if registered, result in a person and any other person:

- 13.1.1 who is connected with him; or
- 13.1.2 with whom he is acting in concert, as defined in the City Code on Takeovers and Mergers;

(each being "**a member of the purchasing group**") holding or increasing a holding of Ordinary Shares carrying the right to 75% or more of the total number of votes which may be cast on a poll at a general meeting of the Company.

- 13.2 This article does not apply if the transfer of shares is:

- 13.2.1 permitted by article 9.2, 9.3, 9.4, 9.6 or 9.7;
- 13.2.2 permitted by articles 11.2 to 11.9 (inclusive) or article 11.11, 11.12, 11.13 or 11.14;
- 13.2.3 to a person who is an original party to the Shareholders' Agreement as an Investor.

- 13.3 No transfer to which this article applies may be made or registered unless the proposed transferee has made an offer in writing (the "**Offer**") to buy all the other Ordinary Shares

(including any Ordinary Shares which may be allotted during the offer period or upon the offer becoming unconditional pursuant to the exercise or conversion of options over or rights to subscribe for securities convertible into Ordinary Shares in existence at the date of such offer) on the terms set out in articles 13.4 and 13.5 (if applicable) (unless, in the case of a particular Ordinary Shareholder less favourable terms are agreed by such Ordinary Shareholder in writing) and the Offer is or has become wholly unconditional.

13.4 Any transfer of Ordinary Shares pursuant to this article shall not be subject to any other restrictions on transfer contained in the remaining articles.

13.5 The terms of the proposed transferee's offer shall be that:

13.5.1 the offer shall be open for acceptance for at least 21 days; and

13.5.2 the consideration for each "A" Ordinary Share and each "B" Ordinary Share shall be the higher of:

(i) the highest consideration offered for each "A" Ordinary Share or "B" Ordinary Share whose proposed transfer has led to the Offer; and

(ii) the highest consideration paid by any member of the purchasing group for an "A" Ordinary Share or a "B" Ordinary Share in the twelve months up to the date of the offer (exclusive of stamp duty, stamp duty reserve tax and commission);

and such offer shall include an undertaking by the offeror that subject to Article 13.8, neither it nor any person acting by agreement or understanding with it has entered into more favourable terms or has agreed more favourable terms with any other member for the purchase of Ordinary Shares.

13.6 The proposed transferee's offer may be conditional on the Offer resulting in members of the purchasing group holding or increasing their aggregate shareholding to a specified proportion of the "A" Ordinary Shares and/or "B" Ordinary Shares in issue.

13.7 Any dispute on the appropriate consideration for an "A" Ordinary Share or a "B" Ordinary Share shall be referred by the Company to the Experts, acting as experts and not as arbitrators. The decision of the Experts shall be final and binding on the parties (save in the case of fraud or manifest error). The Experts' terms of reference shall be to determine the matters in dispute within 30 days of their appointment and the parties shall each provide the Experts with all information relating to the consideration which the Experts reasonably require and the Experts shall be entitled (to the extent they consider it appropriate) to base their determination on such information. The proposed transferee shall pay half the Experts' costs and the holders of the shares in dispute with the proposed transferee shall pay the other half.

13.8 For the avoidance of doubt, "consideration" for the purposes of article 13.5 above:

(i) subject always to the terms of article 13.8(ii) shall be construed as meaning the value or worth of the consideration regardless of the form of the consideration; and

- (ii) shall exclude any offer to subscribe or acquire any share or debt instrument in the capital of any member of the purchasing group made to an Ordinary Shareholder if:
  - (a) such offer to subscribe or acquire is an alternative (whether in whole or in part) or in addition to the consideration offered; and
  - (b) the consideration offered to all Ordinary Shareholders is of itself on arms length terms in accordance with article 13.1.
- 13.9 The Company shall notify the holders of the Ordinary Shares of the terms of any offer extended to them pursuant to article 13.3 forthwith upon receiving notice of the same from the proposed transferee whereupon any holder of Ordinary Shares (a "**Selling Shareholder**") who wishes to transfer Ordinary Shares to the proposed transferee pursuant to the terms of the offer shall serve notice on the Company (the "**Transfer Notice**") at any time before the proposed transferee's offer ceases to be open for acceptance (the "**Closing Date**") stating the number of shares it wishes to transfer (the "**Transfer Shares**").
- 13.10 The Selling Shareholder may specify in the Transfer Notice that:
  - 13.10.1 it is only willing to transfer all the Transfer Shares, in which case no Transfer Shares can be sold unless offers are received for all of them; and/or
  - 13.10.2 the Transfer Shares can only be transferred if a specified proportion of all "A" Ordinary Shares and/or "B" Ordinary Shares in issue are transferred at the same time.
- 13.11 The Transfer Notice shall make the Company the agent of the Selling Shareholder for the sale of the Transfer Shares on the terms of the proposed transferee's offer and on any terms specified in the Transfer Notice.
- 13.12 Within 7 days after the Closing Date:
  - 13.12.1 the Company shall notify the proposed transferee in writing of the names and addresses of the Selling Shareholders who have accepted the offer made by the proposed transferee;
  - 13.12.2 the Company shall notify each Selling Shareholder in writing of the number of Transfer Shares which he/it is to dispose of and the identity of the transferee; and
  - 13.12.3 the Company's notices shall state the time and place, between 7 and 14 days after the Closing Date, on which the sale and purchase of the Transfer Shares held by each Selling Shareholder is to be completed.
- 13.13 If any Selling Shareholder does not transfer his respective Transfer Shares in accordance with article 13.11 the Board may authorise any director to execute, complete and deliver in the name of and on behalf of the Selling Shareholders a transfer of the Transfer Shares to the relevant member of the purchasing group against receipt by the Company of the consideration for each Sale Share. The Company shall hold such consideration in trust



for the Selling Shareholder without any obligation to pay interest. The Company's receipt of the consideration shall be a good discharge to the relevant member of the purchasing group. The directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Selling Shareholder shall surrender to the Company its share certificate (or, where appropriate, provide an indemnity in respect thereof in a form satisfactory to the Board) for the Transfer Shares to be transferred by him whereupon the defaulting Selling Shareholder shall be entitled to the consideration for the relevant Transfer Shares.

13.14 Article 12 does not apply to any transfers of shares made under this article.

#### 14. **BRING-ALONG RIGHTS**

14.1 If:

- 14.1.1 prior to the expiry of 18 months from the date of adoption of these articles, holders of 58% or more of the Ordinary Shares in issue (excluding any Ordinary Shares held by any trust established for the benefit of employees of the Group), have accepted an offer to sell their Ordinary Shares to a purchaser; or
- 14.1.2 prior to the expiry of 18 months from the date of adoption of these articles, but during a Default Period, holders of 51% or more of the "B" Ordinary Shares in issue, have accepted an offer to sell their B Ordinary Shares to a purchaser; or
- 14.1.3 after the expiry of 18 months from the date of adoption of these articles, holders of 51% or more of the "B" Ordinary Shares in issue, have accepted an offer to sell their B Ordinary Shares to a purchaser;

then the purchaser may, by serving a notice (a "**Compulsory Purchase Notice**") on each other shareholder holding Ordinary Shares (each a "**Minority Shareholder**"), require each Minority Shareholder to transfer all the Ordinary Shares held by him (free from all liens, charges and other encumbrances and together with full title guarantee) to one or more persons identified in the Compulsory Purchase Notice (each a "**Purchaser**") at the consideration specified in article 13.5.2 on the date specified in the Compulsory Purchase Notice (the "**Completion Date**") being not less than 14 days after the date of the Compulsory Purchase Notice.

14.2 The shares subject to the Compulsory Purchase Notices shall be sold and purchased in accordance with the following provisions, namely:

- 14.2.1 on or before the Completion Date each Minority Shareholder shall deliver to the Company duly executed stock transfer forms for the Ordinary Shares which are the subject of the Compulsory Purchase Notice and which are held by them (the "**Minority Shares**"), together with the relevant share certificates (or an indemnity in respect thereof in a form satisfactory to the Board). On the Completion Date (but to the extent only that the Purchaser(s) have put the Company in the requisite funds) the Company shall pay the Minority Shareholders, on behalf of the Purchaser(s) the price for the Minority Shares held by them. The Company's receipt for the price shall be a good discharge to the Purchaser(s). The Company shall hold any funds received from the

Purchaser(s) in trust for the Minority Shareholders without any obligation to pay interest; and

- 14.2.2 if a Minority Shareholder fails to deliver duly executed stock transfer forms for the Minority Shares held by him to the Company by the Completion Date, the Board may (and will if so requested by the Investor Director) authorise any director to execute, complete and deliver in the name of and on behalf of the Minority Shareholder a transfer of the Minority Shares to each Purchaser to the extent that the Purchaser has, by the Completion Date, put the Company in funds to pay for the Minority Shares offered to him. The Board shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Minority Shareholders shall surrender to the Company his share certificate (or, where appropriate, provide an indemnity in respect thereof in a form satisfactory to the Board) for the Minority Shares formerly held by him whereupon he shall be entitled to the price for the Minority Shares formerly held by him.
- 14.3 Whilst this article applies to the Ordinary Shares of a Minority Shareholder, those shares may not be transferred otherwise than under this article.
- 14.4 Article 12 does not apply to transfers of shares made under this article.
15. **CONVERSION OF "A" AND "B" ORDINARY SHARES**
- 15.1 When an "A" Ordinary Share is transferred to a "B" Ordinary Shareholder it shall be converted into a "B" Ordinary Share upon such a transfer taking effect.
- 15.2 When a "B" Ordinary Share is transferred to an "A" Ordinary Shareholder it shall upon such a transfer taking effect be converted into an "A" Ordinary Share.
16. **VARIATION OF CLASS RIGHTS**
- 16.1 The rights attaching to the "A" Ordinary Shares shall only be adversely varied with the consent in writing of the holders of not less than 75 per cent of the "A" Ordinary Shares or by an extraordinary resolution passed at a separate class meeting of the holders of the "A" Ordinary Shares. Any variation which does not adversely affect their rights shall not require such consent.
- 16.2 The rights attaching to the "B" Ordinary Shares shall only be adversely varied with the consent in writing of the holders of not less than 75 per cent of the "B" Ordinary Shares or by an extraordinary resolution passed at a separate class meeting of the holders of the "B" Ordinary Shares. Any variation which does not adversely affect their rights shall not require such consent.
- 16.3 The provisions of these articles relating to general meetings of the Company or to the proceedings at such meetings shall, mutatis mutandis, apply to any separate meeting of the holders of any class of shares except that the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy at least one-third in nominal amount of the issued shares of the class (unless all the shares of any class are registered in the name of a single shareholder in which case the

quorum shall be that person, his proxy or duly authorised representative of such shareholder);

- (i) at any adjourned meeting the necessary quorum shall be one person holding shares of the class or his proxy;
- (ii) every holder of shares of the class shall, on a poll, have one vote in respect of every share of the class held by him; and
- (iii) a poll may be demanded by any one holder of shares of the class whether present in person or by proxy.

## **17. GENERAL PROVISIONS**

### **17.1 Share Certificates**

Regulation 6 of Table A is modified by the inclusion of the following words after the words "with the seal" in the second sentence of regulation 6: "or shall be signed by a director and the secretary of the Company, or by two directors of the Company . . . "

### **17.2 Lien**

- 17.2.1 Regulation 8 of Table A is modified by the deletion of the words "(not being a fully paid share)".
- 17.2.2 The lien conferred by regulation 8 of Table A shall apply to all shares, whether fully paid or not, and to all shares registered in the name of any person under a liability (whether actual or contingent) whether he shall be the sole registered holder of such shares or one of two or more joint holders of such shares and regulation 8 of Table A shall be construed accordingly.

### **17.3 Purchase of Own Shares**

Regulation 35 of Table A shall be modified by the deletion of the words "otherwise than out of distributable profits of the company or the proceeds of a fresh issue of shares" and the substitution for them of the words ", whether out of its distributable profits or out of the proceeds of a fresh issue of shares or otherwise".

### **17.4 General Meetings**

- 17.4.1 Regulation 37 of Table A is modified by the deletion of the words "eight weeks" and the substitution for them of the words "28 days" and by the insertion of the words "or the Investor Director acting alone" after the second word of that regulation.
- 17.4.2 A general meeting may consist of a conference between members some or all of whom are in different places provided that each member who participates is able:
  - (i) to hear each of the other participating members addressing the meeting; and

- (ii) if he so wishes, to address all of the other participating members simultaneously,

whether directly, by conference telephone or by any other form of communications equipment (whether in use when these articles are adopted or not) or by a combination of those methods.

A quorum is deemed to be present if those conditions are satisfied in respect of at least the number of members required to form a quorum. A meeting held in this way is deemed to take place at the place where the largest group of participating members is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates. A resolution put to the vote of a meeting shall be decided by each member indicating to the chairman (in such manner as the chairman may direct) whether the member votes in favour of or against the resolution or abstains. References in this article to members shall include their duly appointed proxies and, in the case of corporate members, their duly authorised representatives.

#### **17.5 Notice of General Meetings**

An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or an elective resolution must be called by at least 21 clear days' notice. All other extraordinary general meetings must be called by at least 14 clear days' notice but a general meeting may be called by shorter notice if it is so agreed:

- 17.5.1 in the case of an annual general meeting or a meeting called for the passing of an elective resolution, by all the members entitled to attend and vote at that meeting; and
- 17.5.2 in the case of any other meeting, by a majority in number of the members having a right to attend and vote, being a majority (i) together holding not less than such percentage in nominal value of the shares giving that right as has been determined by elective resolution of the members in accordance with the Act, or (ii) if no such elective resolution is in force, together holding not less than 95 per cent in nominal value of the shares giving that right.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify that the meeting is an annual general meeting.

Subject to the provisions of the articles and to any restrictions imposed on any shares, the notice shall be given to all the members, to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the directors and auditors.

#### **17.6 Proceedings at General Meetings**

- 17.6.1 No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business and for its duration. Two persons entitled to vote upon the business to be transacted (one of whom shall be an Investor unless the Majority Investors otherwise agree

in writing), each being a member or a proxy for a member or a duly authorised representative of a corporation shall be a quorum. If a meeting is adjourned pursuant to regulation 41 of Table A because a quorum is not present and at the adjourned meeting a quorum is not present within half an hour of the time set for that meeting, the members present shall be a quorum.

- 17.6.2 A corporation which is a member of the Company may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or at any meeting of any class of members of the Company. The person so authorised is entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member.
- 17.6.3 A poll may be demanded by the chairman or by any member present in person or by proxy and entitled to vote and regulation 46 of Table A is modified accordingly.
- 17.6.4 Regulation 51 of Table A is amended by replacing the first and second sentences with the following words: "A poll demanded shall be taken forthwith".
- 17.6.5 Regulation 53 of Table A is modified by the addition of the following words after the words "each member" "(or by any director or the secretary of a corporation who is a member)" and by the addition at the end of the first sentence of the following sentence: "If a resolution in writing is described as a special resolution or as an extraordinary resolution or as an elective resolution, it shall have effect accordingly."

#### **17.7 Votes of Members**

- 17.7.1 A proxy shall be entitled to vote on a show of hands and regulation 54 shall be construed accordingly.
- 17.7.2 Regulation 57 of Table A is modified by the inclusion after the word "shall" of the phrase ",unless the directors otherwise determine,".
- 17.7.3 Regulation 59 of Table A is modified by the addition at the end of the second sentence of the following sentence: "Deposit of an instrument of proxy shall not preclude a member from attending and voting at the meeting or at any adjournment of it."
- 17.7.4 An instrument appointing a proxy must be in writing in any usual form or in any other form which the directors may approve and must be executed by or on behalf of the appointor.
- 17.7.5 Regulation 62 of Table A is modified by the deletion in paragraph (a) of the words "deposited at" and by the substitution for them of the words "left at or sent by post or by facsimile transmission to", by the substitution in paragraph (a) of the words "one hour" in place of "48 hours" and by the substitution in paragraph (b) of the words "one hour" in place of "24 hours".

## **17.8 Number of Directors**

Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) is not subject to any maximum and the minimum number is one.

## **17.9 Alternate Directors**

- 17.9.1 The Investor Directors may appoint any person willing to act, whether or not he is a director of the Company, to be an alternate director. That person need not be approved by resolution of the directors and regulation 65 of Table A is modified accordingly. In regulation 67 of Table A the words "but, if" and those words which follow to the end of the regulation shall be deleted.
- 17.9.2 An alternate director who is absent from the United Kingdom is entitled to receive notice of all meetings of directors and meetings of committees of directors of which his appointor is a member. An alternate director may waive the requirement that notice be given to him of a meeting of directors or a committee of directors of which his appointor is a member, either prospectively or retrospectively. Regulation 66 of Table A is modified accordingly.
- 17.9.3 An alternate director shall not be entitled as such to receive any remuneration from the Company although he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, and the first sentence of regulation 66 of Table A shall be modified accordingly.
- 17.9.4 A director, or any other person mentioned in regulation 65 of Table A, may act as an alternate director to represent more than one director, and an alternate director shall be entitled at any meeting of the Board to one vote for every director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one person for the purpose of determining whether a quorum is present.
- 17.9.5 Regulation 68 of Table A is modified by the addition at the end of the first sentence of the following sentence: "Any such notice may be left at or sent by post or facsimile transmission to the office or another place designated for the purpose by the directors."

## **17.10 Delegation of Directors' Powers**

Regulation 72 of Table A is modified by the addition at the end of the regulation of the following sentence: "Where a provision of the articles refers to the exercise of a power, authority or discretion by the directors and that power, authority or discretion has been delegated by the directors to a committee, the provision must be construed as permitting the exercise of the power, authority or discretion by the committee."

## **17.11 Appointment and Retirement of Directors**

- 17.11.1 The directors are not subject to retirement by rotation. Regulations 73, 74 and 75 of Table A do not apply, and reference in regulations 67, 78 and 84 of Table A to retirement by rotation is to be disregarded.
- 17.11.2 The Company may by ordinary resolution appoint a person who is willing to and act to be a director either to fill a vacancy or as an additional director.
- 17.11.3 A person appointed by the directors to fill a vacancy or as an additional director is not required to retire from office at the annual general meeting next following his appointment and the last two sentences of regulation 79 of Table A are deleted.
- 17.11.4 The holder or holders of more than half in nominal value of the shares giving the right to attend and vote at general meetings of the Company may by serving notice on the Company remove a director from office and appoint a person to be a director. The notice may consist of several documents in similar form each signed by or on behalf of one or more holders and shall be left at, or sent by post or facsimile transmission to the registered office of the Company or such other place designated by the directors for the purpose. A removal or appointment takes effect when the notice is received by the Company or on such later date (if any) specified in the notice. This article does not apply to the removal or appointment of the Investor Director.
- 17.11.5 No person shall be or become incapable of being appointed a director by reason only of his having attained the age of seventy or any other age nor shall any special notice be required in connection with the appointment or the approval of the appointment of such person, and no director shall vacate his office at any time by reason only of the fact that he has attained the age of seventy or any other age. Section 293 of the Act shall not apply to the Company.

## **17.12 Disqualification and Removal of Directors**

- 17.12.1 The office of a director shall be vacated if:
- (i) he ceases to be a director by virtue of any provision of the Act or he becomes prohibited by law from being a director;
  - (ii) he becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - (iii) (other than in the case of an Investor Director) he becomes, in the opinion of all his co-directors, incapable by reason of mental disorder of discharging his duties as director;
  - (iv) he resigns his office by notice in writing to the Company;
  - (v) he has for more than six consecutive months been absent without permission of the directors from meetings of directors held during that period and his alternate

director (if any) has not during that period attended any such meetings instead of him, and the directors resolve that his office be vacated;

- (vi) (other than in the case of an Investor Director) he is removed from office by notice addressed to him at his last-known address and signed by all his co-directors; or
- (vii) (other than in the case of an Investor Director) he is removed from office by notice given by a member or members under article 17.11.4; or
- (viii) being an executive director he shall, for whatever reason, cease to be employed by any member of the Group and does not continue to be employed by any member of the Group.

17.12.2 Those persons voting against a resolution under section 303 of the Act to remove an Investor Director or voting against a resolution to amend or alter this article 17.12.2 or article 6 or to alter their respective effect are deemed, in respect of that resolution, to have votes which together carry at least one vote in excess of seventy-five per cent. of the votes exercisable at the general meeting at which such a resolution is to be proposed and such votes shall be apportioned amongst such persons in the proportions in which they hold shares in the capital of the Company and regulation 54 of Table A is modified accordingly.

#### **17.13 Remuneration of Directors**

17.13.1 The directors (other than the Investor Director or any director who for the time being holds an executive office or employment with the Company) shall be paid out of the funds of the Company by way of remuneration for their services as directors such fees not exceeding the amount set by the Remuneration Committees (as defined in the Shareholders' Agreement) (or such larger sum as the Company may, by ordinary resolution, determine) as the directors may decide to be divided among them in such proportion and manner as they may agree or, failing agreement, equally. Any fee payable under this article shall be distinct from any remuneration or other amounts payable to a director under other provisions of these articles and shall accrue from day to day.

17.13.2 A director who, at the request of the other directors, goes or resides abroad, makes a special journey or performs a special service on behalf of the Company may be paid such reasonable additional remuneration (whether by way of salary, percentage of profits or otherwise) and expenses as the directors (including the Investor Director) may decide.

#### **17.14 Director's appointments and interests**

17.14.1 Regulation 84 of Table A shall be modified by addition of the words: "with the consent of the Majority Investors" after the words "the directors" and before the words "may appoint" in the first sentence of regulation 84, and after the words "the directors" and before the word "determine" and after the words "as they" and before the words "think fit" in the second sentence of regulation 84.



- 17.14.2 Regulation 85 of Table A shall be modified by the addition of the words: "and except in the case of the Investor Director, to the consent of the Majority Investors" after the words "provisions of the Act" and before the words ", and provided that he has disclosed" in the first sentence of regulation 85.

**17.15 Directors' gratuities and pensions**

Regulation 87 shall be modified by the addition of the words: "with the consent of the Majority Investors" after the words "The directors" and before the words "may provide benefits" in the first sentence of regulation 87.

**17.16 Proceedings of Directors**

- 17.16.1 Regulation 88 of Table A is modified by the exclusion of the third sentence and the substitution for it of the following sentences: "Every director shall receive notice of a meeting, whether or not he is absent from the United Kingdom. A director may waive the requirement that notice be given to him of a meeting of directors or a committee of directors, either prospectively or retrospectively" and by the addition of the word "not" between the words "shall" and "have" in the fourth sentence.
- 17.16.2 The quorum for the transaction of the business of the directors shall be two directors present throughout the meeting of whom one is an Investor Director (if appointed), unless otherwise agreed in writing by the Majority Investors.
- 17.16.3 The directors with the consent of the Majority Investors may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office and regulation 91 shall be construed accordingly.
- 17.16.4 A director or his alternate may validly participate in a meeting of the directors or a committee of directors through the medium of conference telephone or similar form of communication equipment if all persons participating in the meeting are able to hear and speak to each other throughout the meeting. A person participating in this way is deemed to be present in person at the meeting and is counted in a quorum and entitled to vote. Subject to the Act, all business transacted in this way by the directors or a committee of the directors is for the purposes of the articles deemed to be validly and effectively transacted at a meeting of the directors or of a committee of the directors although fewer than two directors or alternate directors are physically present at the same place. The meeting is deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- 17.16.5 Meetings of the board of directors shall take place no less frequently than once each calendar month and at least five working days' notice shall be given to each director of such a meeting provided that with the consent of a majority of the directors, including an Investor Director, board meetings may be held less frequently and/or convened on shorter notice.

- 17.16.6 If and for so long as there is a sole director of the Company:
- (i) he may exercise all the powers conferred on the directors by the articles by any means permitted by the articles or the Act;
  - (ii) for the purpose of regulation 89 of Table A the quorum for the transaction of business is one; and
  - (iii) all other provisions of the articles apply with any necessary modification (unless the provision expressly provides otherwise).

17.16.7 Without prejudice to the obligation of any director to disclose his interest in accordance with section 317 of the Act, a director may vote at a meeting of directors or of a committee of directors on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty **PROVIDED THAT** he has first obtained the consent of the Majority Investors (unless the director concerned is an Investor Director, in which case no such consent shall be required). The director shall be counted in the quorum present when any such resolution is under consideration and if he votes, his vote shall be counted.

#### 17.17 Dividends

- 17.17.1 The directors may deduct from a dividend or other moneys payable to a member on or in respect of a share any amounts presently payable by him to the Company in respect of that share.
- 17.17.2 Regulation 103 of Table A shall be modified by the addition of the following words: "with the consent of the Majority Investors" after the words "the directors" in the first sentence of regulation 103.

#### 17.18 Capitalisation of Profits

The directors may, with the authority of an ordinary resolution of the Company, resolve that any shares allotted under regulation 110 of Table A to any member in respect of a holding by him of any partly paid shares shall, so long as those shares remain partly paid, rank for dividends only to the extent that those partly paid shares rank for dividend and regulation 110 of Table A shall be modified accordingly.

#### 17.19 Notices

- 17.19.1 Regulation 112 of Table A is modified by:
- (i) the addition of the following sentence at the end of the first sentence of regulation 112: "Without prejudice to any provision of the Act or any other legislation or to any other provisions of these articles requiring notices or documents to be delivered in a particular way, the Company may also give any notice to a member by fax (except for share certificates) to a fax number notified by the shareholder in writing or by electronic mail or by any other data transmission process (except for share certificates) to an address notified by the shareholder in writing for such purpose; and

- (ii) by the deletion of the last sentence and the substitution for it of the following: "A member whose registered address is not within the United Kingdom is entitled to have notices given to him at that address."

17.19.2 A notice sent to a member (or to another person entitled to receive notices under the articles) by post to an address within the United Kingdom is deemed to be given:

- (i) 24 hours after posting, if pre-paid as first class; or
- (ii) 48 hours after posting, if pre-paid as second class.

A notice sent to a member (or to another person entitled to receive notices under the articles) by post to an address outside the United Kingdom is deemed to be given 72 hours after posting, if pre-paid as airmail. Proof that an envelope containing the notice was properly addressed, pre-paid and posted is conclusive evidence that the notice was given. A notice not sent by post but left at a member's registered address is deemed to have been given on the day it was left. A notice or document (other than a share certificate) sent by fax is treated as being delivered at the time it was sent. A notice or document (other than a share certificate) sent by electronic mail or by any other data transmission process is treated as being delivered at the time it was sent.

17.19.3 Regulation 116 of Table A is modified by the deletion of the words "within the United Kingdom".

17.19.4 Where the Articles require notice to be given by the holders of a stated percentage of shares, notice may consist of several documents in similar form each signed by or on behalf of one or more shareholders.

17.19.5 Members can deliver a notice or other document to the Company:

- (i) by delivering it by hand to the registered office of the Company from time to time;
- (ii) by sending it by post or other delivery service not referred to below in an envelope (with postage or delivery paid) to the registered office of the Company from time to time;
- (iii) by fax to the fax number notified by the Company in its communications to shareholders for this purpose; or
- (iv) so far as the legislation allows, by electronic mail or by any other data transmission process to the address notified by the Company in its communications to shareholders for this purpose.

A notice of document delivered by hand is treated as being delivered at the time it is left at the registered office of the Company from time to time.

A notice or document sent by post or other delivery service not referred to below is treated as being delivered at the time it is received at the registered office of the Company from time to time.

A notice or document sent by fax is treated as being delivered at the time it was received.

A notice or document sent by electronic mail or by any other data transmission process is treated as being delivered at the time it was received.

This Article does not affect any provision of the Act or any other legislation or any other provisions of the articles requiring notices or documents to be delivered in a particular way.

#### **17.20 Indemnity**

17.20.1 Subject to the provisions of the Act, but without prejudice to any indemnity to which he may otherwise be entitled, each person who is a director, alternate director or secretary of the Company shall be and be kept indemnified out of the assets of the Company against all costs, charges, losses and liabilities incurred by him in the proper execution of his duties or the proper exercise of his powers, authorities and discretions including, without limitation, a liability incurred:

- (i) defending proceedings (whether civil or criminal) in which judgment is given in his favour or in which he is acquitted or which are otherwise disposed of without a finding or admission of material breach of duty on his part; or
- (ii) in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

17.20.2 The directors may exercise all the powers of the Company to purchase and maintain insurance for the benefit of a person who is or was:

- (i) a director, alternate director, secretary or auditor of the Company or of a company which is or was a subsidiary undertaking of the Company or in which the Company has or had an interest (whether direct or indirect); or
- (ii) a trustee of a retirement benefits scheme or other trust in which a person referred to in paragraph (i) above is or has been interested;

indemnifying him and keeping him indemnified against liability for negligence, default, breach of duty or breach of trust or any other liability which may lawfully be insured against by the Company.

#### **17.21 Borrowing Powers of Directors**

The directors may exercise all the powers of the Company to borrow and raise money and to mortgage and charge all or any part of the undertaking, property and uncalled capital of the Company and, subject to the provisions of the Act, to issue debentures and

other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

**18. RELATIONSHIP WITH FACILITIES AGREEMENT**

- 18.1 The provisions of regulations 102 to 108 (inclusive) of Table A are subject to the following provisions of this article 18.
- 18.2 Any payment, the making or declaration of any dividend or other distribution on any class of shares shall be made subject to and in accordance with the terms of the Facilities Agreement and the Intercreditor Deed.
- 18.3 If the payment or making of all or any part of such dividend or other distribution cannot be paid or made by virtue of the Facilities Agreement and/or the Intercreditor Deed, then such dividend or other distribution shall be paid or made upon any necessary consent being obtained or the prohibition ceasing to apply.

This article shall not restrict or prevent the accrual of interest at a specified rate on any scheduled dividend payments or on any scheduled repayments which are not paid by the Company by virtue of the provisions of the Facilities Agreement and/or the Intercreditor Deed.